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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/466,113
Filing Date: December 17, 1999
Appellant(s): KETRENOS ET AL.

Timothy N. Trop
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 05/07/2009 appealing from the Office action

mailed 12/11/2008.

(1)   Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2)   Related Appeals and Interferences

A statement identifying the related appeals and interferences, which will directly

affect or be directly affected by or have a bearing on the decision in the pending appeal

is contained in the brief.

(3)   Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4)   Status of Amendments After Final

The appellant's statement of the status of the amendments after final rejection

contained in the brief is correct.

(5)   Summary of Claimed Subject Matter

The summary of invention contained in the brief is correct.

(6) *Grounds of Rejection to be Reviewed on Appeal*

The appellant's statement of the grounds of rejection to be reviewed on appeal is

correct.

(7) *Claims Appendix*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) *Evidence Relied Upon*

The following is a listing of the prior art of record relied upon in the rejection of
claims under appeal.

6,513,048	**Eagle et al**	**01-2003**
6,421,777	**Pierre-Louis et al**	**07-2002**

(9) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-24 are presented for examination.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Eagle et al (U.S. 6,513,048) and further in view of Pierre-Louis et al (U.S. 6,421,777).

As per claims 1,8,17 Eagle disclosed a method comprising: receiving a request for a

portion of a file system by a client (col. 2, lines 61-63).

However Eagle did not disclose in detail identifying whether the portion is stored in a

first location associated with portions of the file system that have been previously stored

by the client. determining whether the portion is stored in a second location associated

with portions of the file system that were streamed to the client by a server.

In the same field of endeavor Pierre-Louis disclosed, "The process begins by the client

machine being turned on (step 500). A determination is then made as to whether to boot

from the network (step 502). If the client is not to boot from the network, then the client

boots from the bios boot device loaded in the client (step 504) with the process

terminating thereafter (col. 10, lines 25-30). One ordinary skill in the art knows at the

time of the invention that the second portion of data stream is loaded up from the client

with the process terminating thereafter is interpreted as the portions stored in the

second location associated with portions of the file system that were streamed to the

client by a server. The data is interpreted as boot file loaded from the client machine.

It would have been obvious to one having ordinary skill in the art at the time of the

invention was made to have incorporated the process begins by the client machine

being turned on (step 500). A determination is then made as to whether to boot from the

network (step 502). If the client is not to boot from the network, then the client boots

from the bios boot device loaded in the client (step 504) with the process terminating

thereafter as taught by Pierre-Louis in the method and system of Eagle to provide a

system for deploying applications across the Internet that provides programs which

execute quickly at remote sites.

4.   As per claim 2,15 Eagle- Pierre-Louis disclosed further comprising retrieving the

portion from the server if not stored in the second location (Pierre-Louis, col. 10 lines

25-30).

5.   As per claim 3,13 Eagle- Pierre-Louis disclosed wherein identifying further

comprises associating portions of the file system used by the client during start-up with

the first location (Pierre-Louis, col. 9, lines 32-38).

6.   As per claims 4,14,19 Eagle- Pierre-Louis disclosed wherein determining
further comprises associating the second location with portions of the file system that
were streamed to the client using a multicast operation (Eagle, col. 6, lines 54-66).

7.   As per claims 5,22,23 Eagle- Pierre-Louis disclosed wherein associating
further comprises: monitoring accesses to a plurality of portions of the file system during
start-up; retrieving the plurality of portions from the file system; and storing the plurality
of portions in the first location (Pierre-Louis, col. 9, lines 10-19).

8.   As per claim 6,20,21 Eagle- Pierre-Louis disclosed wherein associating further
comprises: retrieving a plurality of portions from the file system using multicasting; and
storing the plurality of portions in the second location (Eagle, col. 6, lines 54-66).

9.   As per claim 7,24 Eagle- Pierre-Louis disclosed further comprising waiting for
the portion to be streamed to the client if not stored in the second location (Eagle, col. 6,
lines 54-66).

10.   As per claim 9 Eagle- Pierre-Louis disclosed wherein the first location is a non-
volatile storage medium (Eagle, col. 3, lines 11-27).

11.   As per claim 10,18 Eagle- Pierre-Louis disclosed wherein the non-volatile
storage medium is a flash memory device (Eagle, col. 3, lines 11-27).

12.   As per claim 11 Eagle- Pierre-Louis disclosed wherein the second location is a

volatile storage medium (Eagle, col. 3, lines 11-27).

13.   As per claim 12 Eagle- Pierre-Louis disclosed wherein the volatile storage

medium is a memory device (Eagle, col. 3, lines 11-27).

14.   As per claim 16 Eagle- Pierre-Louis disclosed wherein the contents of the

second location are procured as a background operation (Eagle, col. 2, lines 57-64)

(10)   Appellant's arguments:

A.   Appellant argued that Pierre-Louis did not disclose, whether a portion of the file

System is stored in a first location associated with portions of the file system that have

been previously stored or, if not determining whether portion is stored in a second

location associated with portions of the file system that were streamed to the client by

the server.

As to Appellant's argument Pierre-Louis clearly disclosed that the portion of the file

system that is interpreted as data file stored in more than one location among different

networks. One ordinary skill in the art at the time of the invention knows that portion of

the file system in the claim language is considered as whole file. Therefore in Pierre-

Louis the file is the boot file as whole. Where portions are the shared boot file saved on

different locations some of the files are stored on the remote side and others are on the

local side within a network as in col. 10 lines 20-54 described below.

With reference now to FIG. 5, a flowchart of a client boot
sequence is depicted in accordance with a preferred embodi-
ment of the present invention. In this example, the flowchart
is directed towards setting up a new client and installing the
operating system on the client.

The process begins by the client machine being turned on
(step 500). A determination is then made as to whether to
boot from the network (step 502). If the client is not to boot
from the network, then the client boots from the bios boot
device located in the client (step 504) with the process
terminating thereafter.

With reference again to step 502, if the BIOS indicates
that the client is to boot from the network, then a boot
request is sent over the network to the server (step 506). This
sending of the boot request onto the network is also referred
to as sending a request "on the wire". Thereafter, a deter-
mination is made as to whether the server responded with a
boot image (step 508). If the server has not responded with
a boot image, the process returns to step 506. Otherwise, a
determination is made as to whether the boot image redirects
the boot to a local image on the client (step 510). If the boot
image redirects to a local image on the client, then the boot
is performed locally (step 512) with the process terminating
thereafter.

On the other hand, if the boot image does not redirect to
a local image on the client, then a remote boot is performed
using the boot image (step 514). Thereafter, the client
connects to the shared directories IBMLANS 416 and WRK-
FILES 414 in FIG. 4 setup on the server (step 516).
Thereafter, the state program is run (step 518). In FIG. 5B,
a determination is then made as to whether the state is new
(step 520). If the state is new, the process then proceeds to
issue a Fdisk command (step 522). Fdisk is used to create a
disk partition. A determination is then made as to whether
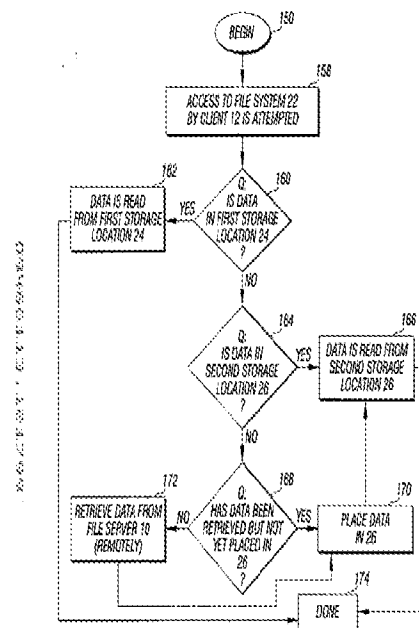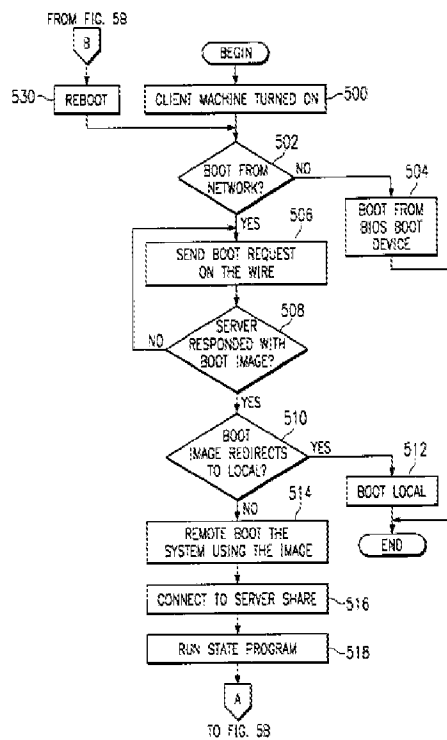the Fdisk command provided a successful result (step 524).

(Col. 10, Lines 20-54)

Additionally for further clarity examiner has compared Fig.5 A of the prior art (Left Side)

and fig. 5 of appellant's specification below.

FIG. 5A

FIGURE 5

From the figure above it is clearly shown that prior art figure. 5A (left side) disclosed the

portion of the file system that is interpreted as data file stored in more than one location

among different networks as in appellant's figure 5 (right side). Therefore Pierre-Louis

discloses the argued the limitation.

(11)   Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

Respectfully submitted,

/Adnan M Mirza/

Examiner, Art Unit 2445

August, 17th, 2009

Conferees

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